

REMARKS

Claims 1-5 and 18-23 are pending in the application, with Claims 1 and 18 being independent. Applicant amends Claims 1 and 18 to clarify claimed subject matter and/or correct informalities. The original specification support these claim amendments at least at pages 3 and 6. Therefore, these revisions introduce no new matter.

Applicant respectfully requests reconsideration and allowance of the subject application in view of the foregoing amendments and the following remarks.

Previous Claims Rejections Under 35 USC §103

Applicant appreciates Examiner's statement that the 35 U.S.C. §103 rejection from the previous Office Action was persuasive. Applicant appreciates the fact that Examiner Powers found a new reference for the new rejections.

Applicant appreciates Examiner's Powers that the previous objections to the claims have been withdrawn.

Claim Rejections under 35 U.S.C. §103

Claims 1-5 and 18-23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 6,983,049 to Wee et al. (hereinafter "Wee") in view of US Patent No. 6,918,034 to Sengodan et al. (hereinafter "Sengodan") in further view of RFC 1889, RTP: A Transport Protocol for Real-Time Applications (hereinafter "RFC 1889"). Applicant respectfully traverses the rejection.

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends **independent Claim 1**, to clarify further features of the subject matter. Amended Claim 1 now recites an apparatus comprising:

- means for encrypting a data stream with an arbitrary block size to form a plurality of encryption units;
- means for defining a format in which metadata can be delivered with each payload in an RTP packet, the format providing for delivery of data is protected with Windows® Media Digital Rights Management (WM DRM); and**
- means for packetizing the plurality of encryption units into a plurality RTP packets each including:
 - an RTP packet header;
 - one or more payloads of a common data stream and selected from the group consisting of:
 - one or more said encryption units;
 - fragment of one said encryption unit; and
 - one RTP payload format header for each said payload and including, for the corresponding encryption units, a boundary for the arbitrary block size;
 - wherein there is a separation of audio data and video data into the RTP packets, without containing mixed media payloads;
 - wherein the RTP packet header of each packet contains information relating to the separation of the audio data and video data;
- wherein a mechanism provides streaming the encryption units across a network while maintaining a block boundary of each encryption unit, such that a recipient can decrypt the encryption units.**

Applicant respectfully submits that no such apparatus is taught or suggested by Wee, Sengodan, and/or RFC 1889, alone or in combination.

References Fail to Disclose, Teach or Suggest Amended Features

First, Applicant asserts the evidence no longer establishes a *prima facie* case of obviousness. Applicant agrees with the Office that Wee fails to describe RTP packets. Rather, Wee is directed to storing data streamed over a network, where the encrypted data are stored by a second device (Abstract). Wee illustrates the header data includes information that allows a transcoder to transcode the video data without decrypting and decoding the data

(col. 19, lines 55-61). Nowhere in Wee is there any mention or discussion RTP packets or streaming the encryption units across a network while maintaining a block boundary of each encryption unit. Thus, Applicant submits Wee fails to disclose, teach, or suggest “*a mechanism provides streaming the encryption units across a network while maintaining a block boundary of each encryption unit, such that a recipient can decrypt the encryption units*”, as recited in Applicant’s amended Claim 1.

Second, Sengodan fails to compensate for the deficiencies of Wee. Sengodan is directed to Internet Protocol telephony, providing encryption and authentication of mini-packet in a real time protocol (col. 1, lines 11-14). Sengodan illustrates the mini-packet controller receiving PSTN/GSM/PBX network and RTP in the telephone gateway (col. 8, lines 41-44, Fig. 7). While Sengodan mentions RTP, there is no discussion or mention of “*defining a format in which metadata can be delivered with each payload in an RTP packet, the format providing for delivery of data is protected with Windows® Media Digital Rights Management (WM DRM)*”, as recited in Applicant’s amended Claim 1. Thus, Sengodan does not provide what is missing from Wee to support a §103 rejection.

Third, RFC 1889 fails to compensate for the deficiencies of Wee and Sengodan. RFC 1889 fails to disclose, teach, or suggest the recited features of Applicant’s amended Claim 1. Thus, Applicant submits that Wee, Sengodan, and/or RFC 1889, alone or in combination, do not disclose, teach, or suggest “*defining a format in which metadata can be delivered with each payload in an RTP packet, the format providing for delivery of data is protected with Windows® Media Digital Rights Management (WM DRM)*”, as recited in Applicant’s amended Claim 1. Accordingly, Applicant submits that the evidence relied upon by the Office no longer supports the rejections made under §103.

Wee Teaches Away

Applicant submits that Wee teaches away from Applicant's subject matter. For example, Applicant's Claim 2 recites "*decrypting the plurality of encryption units to form the data stream*", which is not disclosed, taught or suggested in Wee. Examiner shows in column 11, lines 48-56 as stating Wee decrypts the progressively encrypted and scalably encoded video data (Office Action, pg. 7). However, the claims as recited in Wee, states "a downstream device, wherein transcoding is performed without decrypting said secure and scalable data packets" as recited in Wee's claims 1, 5, and 10. Furthermore, Figures 15 and 16 illustrate the transcoder. Therefore, Applicant submits that the evidence relied upon by the Office does not support claim 2 rejection.

Insufficient Evidence to Suggest Reason to Modify References

There must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness... KSR Int'l Corp. v. Teleflex, Inc., Slip Op. at 14 (U.S. Apr. 30, 20076) (quoting In re Kahn, 441 F.3d 977, 988 (CA Fed. 2006)). The Office stated one of ordinary skill in the art at the time the invention was made would have been motivated to implement the data streaming scheme of Wee with the use of RTP packets of Sengodan in order to encryption and authentication of RTP packets in IP communications as suggested by Sengodan (Office Action, pg. 2). Applicant submits that there is no motivation for the modification with RFC 1889, because there is nothing in either of the references that would suggest modifications of the three references.

Also, Applicant submits there is no articulated reason with some rational underpinning to support this rejection based on the suggested modification. Rather, the asserted reason relies on hindsight without evidence of articulated reasoning to propose the suggested modification. This rejection is improper for this additional reason.

Independent Claim 18 is directed to a method and has been amended to recite features along the lines of Claim 1. Applicant submits that Claim 18 should be allowable for reasons similar to those discussed above with respect to Claim 1.

Dependent Claims 2-5 and 19-23 depend directly or indirectly from one of independent Claims 1 and 18 and are allowable as depending from an allowable base claim. These claims are also allowable for their own recited features that, in combination with those recited in Claims 1 and 18, are not disclosed, taught, or suggested by Wee, Sengodan and/or RFC 1889, alone or in combination.

Applicant respectfully submits that the cited references do not render the claimed subject matter obvious and that the claimed subject matter, therefore, patentably distinguishes over the cited references. For all of these reasons, Applicant respectfully requests the §103 rejection of these claims should be withdrawn.

Conclusion

Claims 1-5 and 18-23 are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of the subject application. If any issue remains unresolved that would prevent allowance of this case, the Office is requested to contact the undersigned attorney to resolve the issue.

Respectfully Submitted,

Lee & Hayes, PLLC
421 W. Riverside Avenue, Suite 500
Spokane, WA 99201

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By: Shirley Lee Anderson
Shirley Lee Anderson
Reg. No. 57,763
509.324.9256 ext. 258